

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT HUNTINGTON

DREW C. FITZPATRICK, by
his father, Roland T. Fitzpatrick,

Plaintiff,

V.

CIVIL ACTION NO. 3:03-0583

DAVID STEWART, et al.,

Defendants.

FINDINGS AND RECOMMENDATION

In this civil action, plaintiff complains of failures by the defendants to comply with the requirements of the provisions of the Individuals with Disabilities Education Act, 20 U.S.C. §1400, et seq. By order entered June 6, 2007, plaintiff was advised that his father, Roland T. Fitzpatrick, who filed the action, cannot represent him and was required to secure counsel within thirty days or face a recommendation of dismissal without prejudice. Plaintiff's father filed a request for an extension of time to secure counsel and he was given an extension until August 3, 2007, to secure counsel. On August 3, 2007, he filed a "Notice of Appeal" of this Court's order asking the district judge to overrule the Order of June 6, 2007. By order entered August 16, 2007, Judge Chambers denied the request for appeal and directed plaintiff secure counsel within fourteen days. Although the time provided has passed, plaintiff has failed to secure counsel or to respond in any manner to the Court's Order.

RECOMMENDATION

In light of the foregoing, it is **RESPECTFULLY RECOMMENDED** that this action be retired to the Court's inactive docket.

Plaintiff and defendants are hereby notified that a copy of these Findings and Recommendation will be submitted to the Honorable Robert C. Chambers, United States District Judge, and that, in accordance with the provisions of Rule 72(b), Fed.R.Civ.P., the parties may, within thirteen days from the date of filing of these Findings and Recommendation, serve and file written objections with the Clerk of this Court identifying the portions of the Findings and Recommendation to which objection is made and the basis for such objection. The Judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made in accordance with the provisions of 28 U.S.C. §636(b) and the parties are advised that failure to file timely objections will result in a waiver of their right to appeal from a judgment of the district court based on such Findings and Recommendation. Copies of objections shall be served on all parties with copies of the same to Judge Chambers and this Magistrate Judge.

The Clerk is directed to file these Findings and Recommendation and mail a copy of the same to plaintiff and counsel of record.

DATED: September 11, 2007


MAURICE G. TAYLOR, JR.
UNITED STATES MAGISTRATE JUDGE